

Inventor: Philip F. Fox

Application No.: 09/502,701

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REMARKS

This Amendment is submitted in reply to the Office Action mailed on July 25, 2005. In the Office Action, the Examiner rejected claim 19 and allowed claims 1-18 and 20-43. With this Amendment, no claims are amended; no claim is canceled, and new claim 44 is added. Upon entry of this Amendment, the above-identified application will include claims 1-44.

Claim Rejection Based On The Wolniak Patent

In the Office Action, the Examiner rejected claim 19 under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 4,827,658 to Wolniak (subsequently referred to as "the Wolniak patent"). According to the Examiner:

The patent to Wolniak shows a tackle box having a plurality of tubes or elongate shells 30 mounted in panels of floatation material 26 which act as a spacing structure. At least two of the elongate shells are capable of serving as legs that will stably support the apparatus on a surface when the at least two elongate shells are positioned in contact with the surface, the spacing structure is effective to prevent slippage of the at least two elongate shells with respect to the spacing structure due to frictional forces between them noting column 3, lines 52-58 of Wolniak.

Despite the Examiner's comments in support of this rejection, the Wolenski patent does not disclose each and every detail required by claim 19 and therefore does not anticipate claims 19.

Claims 19 reads as follows:

19. (Original) An ice fishing tackle storage apparatus, the apparatus comprising: a plurality of elongate shells, the elongate shells each having an interior surface that defines an elongate cavity, and ice fishing tackle capable of being positioned within the elongate cavities of the elongate shells; a spacing structure, the elongate shells secured by the spacing structure, the spacing structure effective to maintain two or more of the elongate shells in predetermined relation to each other, proximate the spacing structure; and wherein at least two of the elongate shells are capable of serving as legs that will stably support the apparatus on a surface when the at least two elongate shells are positioned in contact with the surface, the spacing structure effective to prevent slippage of the at least two elongate shells with respect to the spacing structure.

Thus, claim 19 specifies that "at least two of the elongate shells are capable of serving as legs that will stably support the apparatus on a surface when the at least two elongate shells are positioned in contact with the surface" and further specifies that the spacing structure is "effective to prevent slippage of the at least two elongate shells with respect to the spacing

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structure.” Despite the Examiner’s comments, the Wolniak patent does not disclose either of these requirements of claim 19.

The Wolniak patent discloses that the bottom panel 21 of floatation material is flush with the bottom of the tubes 30. (See Figure 2 of the Wolniak patent). Though the Wolniak patent discloses “the entire tube display assembly may be lifted from the container portion,” as the Examiner references, the Wolniak patent does not disclose any subsequent placement or use of the tube display assembly. The mere fact that the entire tube display assembly may be lifted from the container portion, merely indicates the tube display assembly, as recited in the Wolniak patent, need not be fixedly attached to the container portion. This removability does not teach or disclose anything about the Wolniak tubes being capable of serving as legs that will stably support the apparatus on a surface when the at least two elongate shells are positioned in contact with the surface, as claim 19 requires. Furthermore, the details presented in the Wolniak patent do not disclose the Examiner’s friction fit whereby the spacing structure is “effective to prevent slippage of the at least two elongate shells with respect to the spacing structure,” particularly when the at least two elongate shells are “serving as legs that will stably support the apparatus on a surface when the at least two elongate shells are positioned in contact with the surface.” For all we know, the flotation material of the panels 21, 23 is sufficient to support tube 30 separation when positioned within the container, but is insufficient to support tube 30 separation when positioned outside the container. The Wolniak patent simply does not provide enough details about the flotation material of the panels 21, 23 to support the Examiner’s position.

Claim 19 is believed allowable over the Wolniak patent. Consequently, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claim 19 based on the Wolniak patent under 37 C.F.R. §102(b) and that claim 19 be allowed.

New Claim Added By Applicant

Applicant has added new claim 44. Support for the features of new claim 44 are believed to be present in the above-identified application. Consequently, Applicant respectfully requests consideration and allowance of new claim 44.

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CONCLUSION

Applicant appreciates the Examiner's allowance of claims 1-18 and 20-43. Claims 19 and 44 are also believed allowable. Therefore, reconsideration and allowance of claim 19 is respectfully requested. Also, consideration and allowance of new claim 44 is respectfully requested. The Examiner is invited to contact Applicant at the phone number indicated below to facilitate allowance of the above-identified application.

Respectfully submitted,

Date: 12/27/05

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